



City of Portland, Oregon
Bureau of Development Services
Land Use Services

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

Date: May 5, 2011
To: Interested Person
From: Susan McKinney, Land Use Services
503-823-7809 / Susan.McKinney@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 11-122268 AD

GENERAL INFORMATION

Applicant: James Kuffner
University Of Portland
5000 N Willamette Blvd
Portland, OR 97102-5798

Christe White, Attorney (**Contact**)
1308 NW Everett
Portland, OR 97209

Site Address: 5000 N WILLAMETTE BLVD

Legal Description: BLOCK 28 LOT 11&12, PORTSMOUTH; BLOCK 28 LOT 13&14, PORTSMOUTH; BLOCK 28 LOT 15-21, PORTSMOUTH; BLOCK 29 LOT 11-20, PORTSMOUTH; BLOCK 32 INC PT VAC ST LOT 1-20, PORTSMOUTH; BLOCK 33 LOT 1 & W 1/2 OF LOT 2 INC PT VAC ALLEY, PORTSMOUTH; BLOCK 33 INC PT VAC ALLEY E 1/2 OF LOT 2 INC PT VAC ALLEY LOT 3&4, PORTSMOUTH; BLOCK 33 LOT 5&6 INC PT VAC ALLEY, PORTSMOUTH; BLOCK 33 LOT 7 INC PT VAC ALLEYS, PORTSMOUTH; BLOCK 33 INC PT VAC ALLEY - LOT 8 INC PT VAC ALLEY - NELY 1/2 OF LOT 9, PORTSMOUTH; BLOCK 33 INC PT VAC ALLEY - SWLY 1/2 OF LOT 9 INC PT VAC ALLEY - LOT 10, PORTSMOUTH; BLOCK 33 LOT 11 INC PT VAC ALLEY, PORTSMOUTH; BLOCK 33 LOT 12 INC PT VAC ALLEY, PORTSMOUTH; BLOCK 33 LOT 13 INC PT VAC ALLEY, PORTSMOUTH; BLOCK 33 LOT 14 INC PT VAC ALLEY, PORTSMOUTH; BLOCK 33 INC PT VAC ALLEYS - LOT 15 INC PT VAC ALLEY - LOT 16, PORTSMOUTH; BLOCK 33 INC PT VAC ALLEY NWLY 16 2/3' OF LOT 18 INC PT VAC ALLEY LOT 19-21, PORTSMOUTH; BLOCK 33 INC PT VAC ALLEY - LOT 17 INC PT VAC ALLEY - SELY 16 2/3' OF LOT 18, PORTSMOUTH; BLOCK 34 INC PT VAC ALLEY LOT 1-3, PORTSMOUTH; BLOCK 34 INC PT VAC ALLEY LOT 4-10 INC PT VAC ALLEY LOT 13-18 & INC PT VAC ALLEY LOT 19,

PORTSMOUTH; BLOCK 34 INC PT VAC ALLEY LOT 11&12,
 PORTSMOUTH; BLOCK 34 INC PT VAC ALLEY LOT 20 & 21,
 PORTSMOUTH; BLOCK 35 NLY 80' OF LOT 1 NLY 100' OF LOT 2&3,
 PORTSMOUTH; BLOCK 35 SLY 30' OF LOT 1 EXC PT IN ST SLY 10'
 OF LOT 2&3, PORTSMOUTH; BLOCK 35 LOT 4&5, PORTSMOUTH;
 BLOCK 35 LOT 6 WLY 1/2 OF LOT 7, PORTSMOUTH; BLOCK 35
 ELY 1/2 OF LOT 7 LOT 8, PORTSMOUTH; BLOCK 35 LOT 9&10
 NONTAXABLE BEGIN 1994, PORTSMOUTH; BLOCK 35&37 TL 300,
 PORTSMOUTH; TL 100 80.73 ACRES, SECTION 18 1N 1E

Tax Account No.: R669906160, R669906180, R669906250, R669906460, R669906890,
 R669907100, R669907120, R669907150, R669907170, R669907180,
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 R669907630, R669907650, R669907670, R669907720, R941180010

State ID No.: 1N1E18AB 02000, 1N1E18AB 02100, 1N1E18AB 02500, 1N1E18AB
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 04600, 1N1E18AB 04700, 1N1E18AB 04800, 1N1E18AB 04900,
 1N1E18 00300, 1N1E18A 00100

Quarter Section: 2324
Neighborhood: University Park, contact Fletcher Trippe at 503-232-6499.
Business District: North Portland Business Assoc, contact Jim Schaller at 503-517-9915.
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at
 503-823-4099.

Zoning: R2, R2n, R2gq (Multi-dwelling Residential 2000 with River Natural,
 River General and River Water Quality Greenway Overlay zones)

Case Type: AD (Adjustment)
Procedure: Type II, an administrative decision with appeal to the Adjustment
 Committee.

Proposal:
 As part of a previous building permit, the University of Portland was required to improve the
 Central Parking Lot to meet current (perimeter and interior landscaping) standards of the
 Portland Zoning Code. As allowed under Section 33.258.070.2.d, the property owner executed
 a covenant with the City of Portland to extend the compliance timeline for a 5-year period.
 That 5-year time period expired on March 26, 2011.

Previously the University had elected to delay the nonconforming upgrades due to ongoing and
 future planning processes that would potentially result in the removal and/or re-development
 of the parking lot; including an updated master plan, the River Plan process and the
 University's planning process for the location and expansion of the student recreation center.
 At this time, all of these efforts are pending.

As a result, the University seeks this adjustment to allow an additional 5-year extension on the
 timeline for nonconforming upgrades to the parking lot site.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are found in 33.805.040 A-F (Adjustments).

ANALYSIS

Site Description: The University of Portland (“University”) is located on the east bank of the Willamette River in North Portland. The northern boundary of the campus, east of N. Portsmouth Avenue, extends to N. Willamette Boulevard. West of N. Portsmouth Avenue, the northern campus boundary extends a half block north of N. Warren Street. The river bluffs form the eastern and southern boundaries of the campus, with an irregular western boundary extending to N. Monteith Avenue. The University maintains an inventory of more than 30 buildings on the campus, with approximately 1.1 million square feet of floor area.

The parking lot subject to the nonconforming upgrades is located near the center of the portion of the campus that is east of N. Portsmouth Avenue; generally south and east of the athletic fields. While there is no perimeter landscaping surrounding the parking lot, it is mostly screened from the public rights-of-way by either buildings or other landscaping not adjacent to the lot. There is no interior landscaping at this time.

Zoning: The largest portion of the campus - where the parking lot is located - is zoned R2 (Multi-Dwelling Residential 2000). The area west of N. Portsmouth is zoned R5 (Single-Dwelling Residential 5,000). And, there are three Greenway Overlay Zones (“g”, “n” and “q”) mapped along the southern edge of the campus, near the bluff.

The Single-Dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

The Multi-Dwelling zones are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing. The six Multi-Dwelling zones are distinguished primarily by density and development standards. The development standards work together to create desirable residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The development standards generally assure that new development will be compatible with the City's character. At the same time, the standards allow for flexibility for new development.

The University is allowed in these residential zones through its Conditional Use Master Plan.

The purpose of the Greenway overlay zones is to implement the land use pattern identified in the Willamette Greenway Plan, and the water quality requirements of Metro Code 3.07.340.B (Title 3). The requested Adjustment does not include any development on the portion of the site located in a Greenway overlay zone.

Land Use History: The University has been the subject of more than 30 land use reviews, dating back at least to the early 1960s. Land Use reviews within the past 13 years include:

- LU 10-142929 GW EN: Approval of Environmental Review and Greenway Review for a public recreation trail, bridge, staging areas, tree removal and mitigation/restoration plantings.
- LU 09-127081 CU: Approval of a Conditional Use to install a radio frequency transmission facility.

- LU 08-165329 GW: Approval of a Greenway Review in the River Natural overlay zone for grading, addition of floor area, demolition of observatory, removal of shrubs and groundcover, tree preservation measures and planting of native vegetation.
- LU 07-163608 AD: Approval of Adjustments to increase maximum building height and reduce minimum building setback along N. Monteith.
- LU 03-153861 CU MS AD: This land use review allowed, in part, an increase in the minimum building setback (from the campus perimeter) for development on Block 32. The Adjustment allowed the setback to be reduced from to one foot for every two feet in building height but in no case *less* than 15 feet, to one foot for every two feet in building height but in no case *more* than 15 feet.
- LUR 98-00812 CU MS CP ZC AD: This land use review approved the University's 1999 Conditional Use Master Plan. It also approved an Adjustment that increased the maximum building height for development on Blocks 32 and 33 from 50 feet to 60 feet.

Agency Review: City agencies were notified of this proposal on April 7, 2011. The following Bureaus have responded with no issues, concerns or objections:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division
- Life Safety Section of BDS

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 7, 2011. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Title 33.805.010 Purpose

The regulations of the Zoning Code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply citywide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the Zoning Code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the Zoning Code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the Zoning Code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A through F, below, have been met.

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicant is requesting an Adjustment to extend the period in which the site must be brought fully into conformance with the development standards of Section 33.258.070.D.2.b for an additional 5 years. The purpose for requiring nonconforming upgrades is stated in Section 33.258.070.A (Purpose) of the Zoning Code, and reads as follows:

This section is primarily aimed at upgrading nonconforming development elements that affect the appearance and impacts of a site. It is not intended to require extensive changes that would be extremely impractical such as moving or lowering buildings.

The request to extend the period in which the site must be brought into conformance with the development standards identified in Section 33.258.070.D.2.b equally or better meets the stated purpose of the regulation. This conclusion is based on the following findings:

- As indicated in the purpose statement, the regulation to be adjusted is not intended to require changes (or upgrades) to development on a site that are impractical. To require perimeter and interior landscaping upgrades to this parking lot would be impractical given the ongoing planning activities that potentially will result in the surface lot being removed and replaced with other uses, such as an extension of the open quad system or University buildings. In other words, it is not practical to install upgrades that are planned for removal as part of the next master plan update.
- Also, and as mentioned previously, the lot is completely internal to the campus. It is not located adjacent to any public street nor does it share a lot line or a street lot line with any public sidewalk or non-University use. The lot is only visible once you enter the campus and enter the lot itself from one of the internal campus entry points. The lot is separated from Willamette Blvd. by over 400 feet and is screened on all sides by University uses including the Chiles Center, Merlo Field, the Student Center and the baseball field.
- The adjustment, as requested, is to postpone the date on which the parking lot is brought fully into conformance with the standards of 33.258.070.D.2 until March 26, 2016. To ensure that the parking lot is brought into conformance with the Portland Zoning Code, a condition of approval is needed, as follows: *On or before March 26, 2016 all nonconforming development related to the Central Parking Lot must be in compliance with the Portland Zoning Code. Compliance may be accomplished through an approved permit which eliminates all nonconforming development through the parking lot's redevelopment **or** through an approved permit for installation of the required landscaping **or** through an approved land use review that further extends the nonconforming deferment period (Condition A).*

As proposed and with the condition of approval, this criterion is met for the requested Adjustment.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The site is located in a residential zone. The proposal to delay the required landscaping improvements will not significantly detract from the livability or appearance of the residential area for the following reasons:

- The subject parking lot is located internal to the campus;
- The parking lot is a minimum of 400 feet to the closest non-University residential property.
- The parking lot is mostly screened from right-of-ways and residential uses by campus buildings and other landscaping already on site. The northern perimeter is screened by the Clive Charles Stadium, practice fields and extensive landscaping. The eastern perimeter is screened by extensive landscaping, the student center and

the University's main gate. There are no residential uses on the southern perimeter. The western perimeter is screened by the Chiles Center as well as landscaping and Portsmouth Avenue.

This criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone.

Findings: Only one adjustment is being requested, therefore, this approval criterion is not applicable.

- D.** City-designated scenic resources and historic resources are preserved.

Findings: There are no City-designated scenic resources associated with this site. There is an historic resource located on the site (West Hall), but it is not near to the Central Parking Lot. Retaining the parking lot in its current status would not create a change that could impact the resource even if it was nearby. This criterion is met.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical.

Findings: There are no impacts that will result from approval of this Adjustment. A condition of approval has been added to ensure redevelopment of the parking lot or installation of the required landscaping or to require a future land use review.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.

Findings: While there is environmental zoning on the southern portion of the site, the parking lot is not within that overlay, nor are any physical changes proposed that could impact the resource. This criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

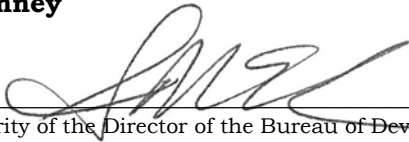
Based on the findings in this report, the applicable criteria have been met for the requested Adjustment to extend the period of time in which the site must be brought fully into conformance with the standards of Section 33.258.070.D.2.b of the Portland Zoning Code. The proposal will equally meet the intent of the regulation being adjusted and will not result in a significant detraction from the livability and appearance of the residential area. A condition of approval has been added to ensure that the site will be in compliance with nonconforming development standards either through an approved permit which eliminates all nonconforming development due to redevelopment of the parking lot **or** through an approved permit for installation of the required landscaping **or** through an approved land use review that further extends the nonconforming deferment period.

ADMINISTRATIVE DECISION

Approval of an Adjustment to 33.258.070.2.d to extend the compliance period for nonconforming upgrades to the Central Parking Lot (location of lot reflected on the attached site plan, Exhibit C.1) through March 26, 2016 subject to the following condition:

- A. The extended compliance period will expire March 26, 2016. By that time one of the following must occur:
1. Approval of a permit which eliminates all nonconforming development through redevelopment of the parking lot, or
 2. Approval of a permit for installation of the required landscaping upgrades, or
 3. Approval of a land use review that further extends the nonconforming deferment period.

Staff Planner: Susan McKinney

Decision rendered by:  **on May 3, 2011**
By authority of the Director of the Bureau of Development Services

Decision mailed: May 5, 2011

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on March 21, 2011, and was determined to be complete on **April 4, 2011**.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on March 21, 2011.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: July 30, 2011**.

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on May 19, 2011** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed,* The final decision may be recorded on or after **May 20, 2011 – (the day following the last day to appeal).**
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder’s office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. Conditional Use Master Plans and any concurrent reviews other than a Zone Change or Comprehensive Plan Map Amendment remain in effect until:

- All development allowed by the plan is completed; or
- The plan is amended or superceded; or
- As specified in the plan; or
- As otherwise specified in the final decision.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

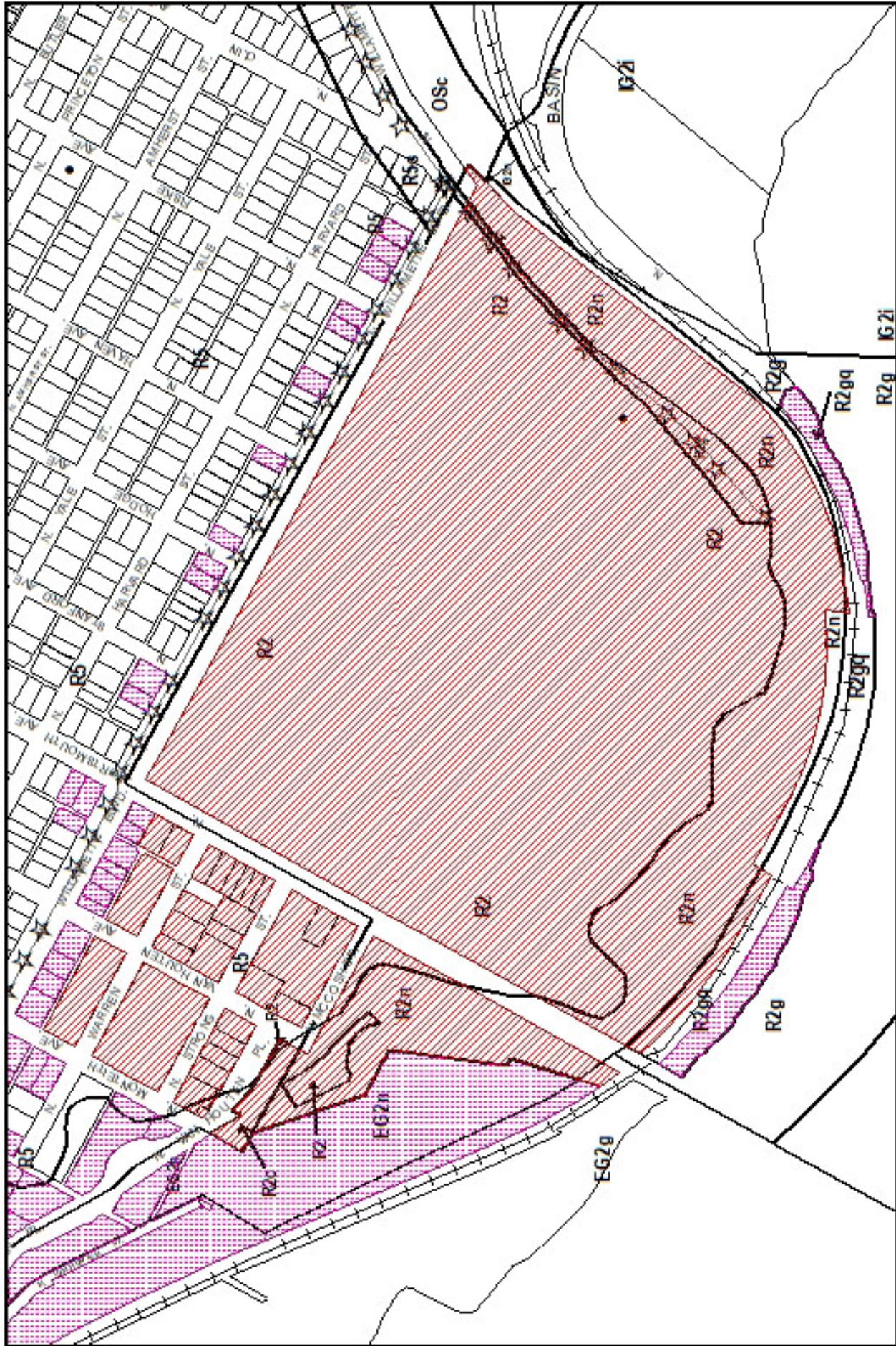
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED




- A. Applicant's Statement
- B. Zoning Map (**attached**)
- C. Plans/Drawings:
 - 1. Site Plan (**attached**)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Section of BDS
- F. Correspondence – None received
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Zoning Confirmation Letter dated June 28, 2006 **with** attached Nonconforming Development Option 2 Request form signed March 14, 2006 and recorded March 21, 2006.


The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



File No. LU 11-122288 AD
 1/4 Section 2324,2325
 Scale 1 inch = 400 feet
 State Id INJE18A_100
 Exhibit B (08/31/2011)

ZONING

 Site
 Also Owned
 Historic Landmark

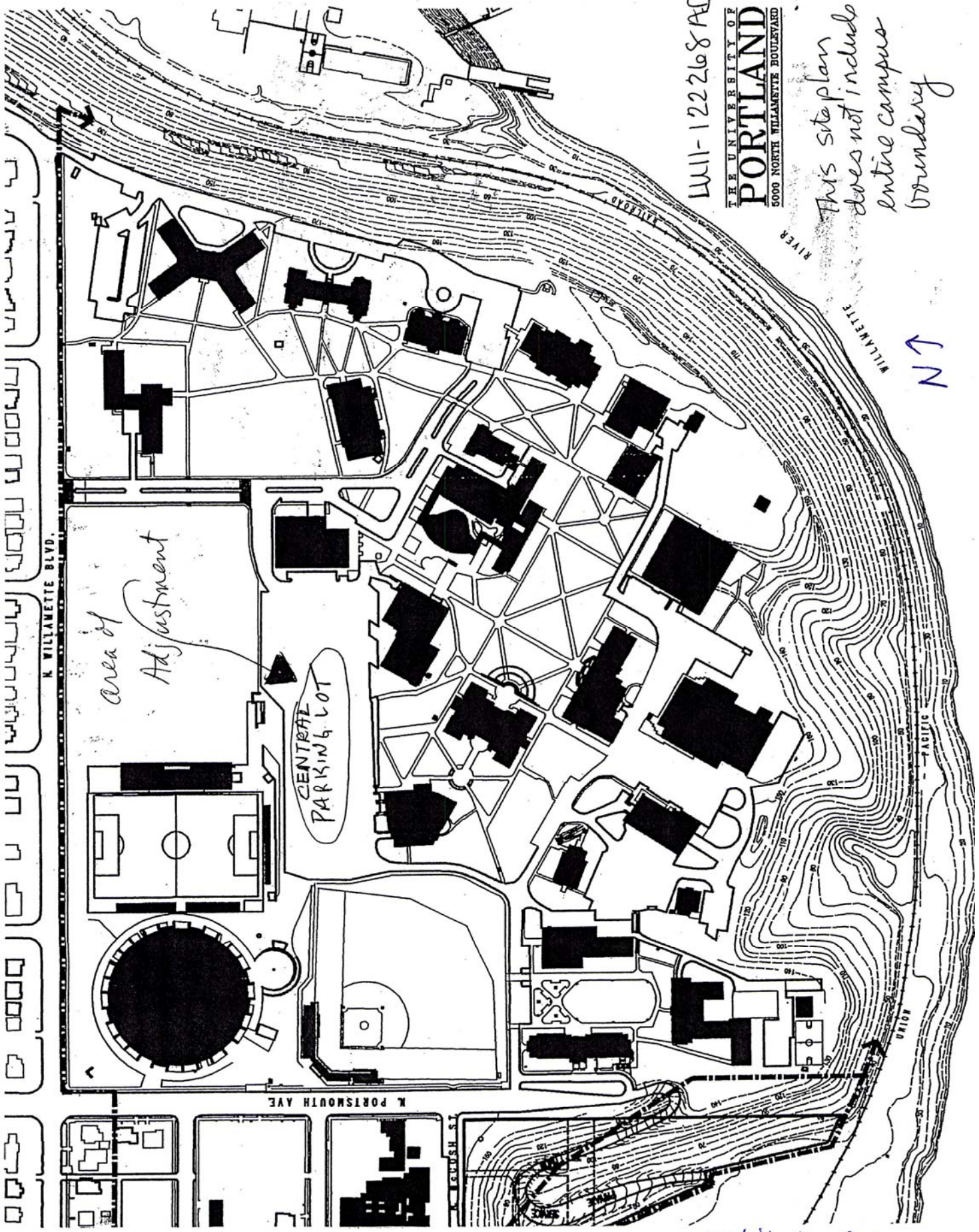


LU11-122268 AD

THE UNIVERSITY OF
PORTLAND
5000 NORTH WILLAMETTE BOULEVARD

*This site plan
does not include
entire campus
boundary*

N ↑



*Area of
Adjustment*

CENTRAL
PARKING LOT

Exhibit C.1